Executive Summary – Enforcement Matter – Case No. 45846 H & S CONSTRUCTORS, INC. RN106543762

Docket No. 2012-2703-MLM-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MLM - AIR, PST, MSW

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

H & S Pipeline, 370 Farm-to-Market Road 190, Asherton, Dimmit County

Type of Operation:

Heavy construction facility

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: April 5, 2013

Comments Received: No

Penalty Information

Total Penalty Assessed: \$11,500

Amount Deferred for Expedited Settlement: \$2,300 Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$9,200 Total Due to General Revenue: \$0

Payment Plan: N/A
SEP Conditional Offset: \$0
Name of SEP: N/A

Compliance History Classifications:

Person/CN - Unclassified

Site/RN - N/A

Major Source: Air/PST: No; Waste Tires: Yes; Used Oil Filter: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2011

Executive Summary – Enforcement Matter – Case No. 45846 H & S CONSTRUCTORS, INC. RN106543762 Docket No. 2012-2703-MLM-E

Investigation Information

Complaint Date(s): N/A **Complaint Information**: N/A

Date(s) of Investigation: October 10, 2012 Date(s) of NOE(s): November 16, 2012

Violation Information

- 1. Failed to obtain authorization to construct and operate a source of air emissions. Specifically, Respondent failed to obtain permit authorization prior to the construction and operation of dry abrasive and surface coating facilities [30 Tex. Admin. Code § 116.110(a) and Tex. Health & Safety Code §§ 382.0518(a) and 382.085(b)].
- 2. Failed to submit an aboveground storage tank ("AST") registration within 30 days from the date petroleum product was first placed into the tank. Specifically, Respondent did not register with the TCEQ an AST 30 days from the date product was placed into the tank on July 10, 2012 [30 Tex. ADMIN. CODE § 334.127(c) and Tex. WATER CODE § 26.346].
- 3. Failed to obtain a scrap tire storage site registration for the Facility prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in enclosed and lockable containers. Specifically, approximately 1,250 scrap tires were observed on the ground [30 Tex. Admin. Code § 328.60(a)].
- 4. Failed to demonstrate transfer of custody of used oil filters from the transporter to the registered storage facility or processor using properly completed bills of lading ("BOLs"). Specifically, copies of BOLs were not made available for inspection by agency personnel [30 Tex. Admin. Code § 328.25(a) and Tex. Health & Safety Code § 371.105].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require Respondent to:

- a. Immediately, cease disposing of any additional scrap tires at the Facility; and,
- b. Within 15 days, submit an administratively complete registration for a Permit by Rule.

Executive Summary – Enforcement Matter – Case No. 45846 H & S CONSTRUCTORS, INC. RN106543762 Docket No. 2012-2703-MLM-E

- c. Within 30 days:
- i. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning permit application within 30 days after the date of such requests, or by any other deadline specified in writing;
- ii. Reduce and maintain the number of scrap tires being stored on-site to 500 or less on the ground and/or 2,000 or less in enclosed and lockable containers; or
- iii. Obtain a scrap tire storage site registration;
- iv. Complete and submit used oil filter BOLs; and
- v. Submit a registration for the AST.
- d. Within 45 days, submit written certification demonstrating compliance with Ordering Provisions a. through c.

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEO Attorney: N/A

TCEO Enforcement Coordinator: Andrea Park, Enforcement Division,

Enforcement Team 6, MC R-12, (713) 422-8970; Debra Barber, Enforcement Division,

MC 219, (512) 239-0412

TCEQ SEP Coordinator: N/A

Respondent: B.K. Trawick, Safety & HR Manager, H & S CONSTRUCTORS, INC.,

P.O. Box 9014, Corpus Christi, Texas 78469-9014

Michael Scott, Director, H & S CONSTRUCTORS, INC., P.O. Box 9014, Corpus Christi,

Texas 78469-9014

Respondent'

Penalty Calculation Worksheet (PCW) Policy Revision 3 (September 2011) PCW Revision August 3, 2011 DATES Assigned 19-Nov-2012 **PCW** 9-Dec-2012 Screening 9-Dec-2012 **EPA Due** RESPONDENT/FACILITY INFORMATION Respondent H & S CONSTRUCTORS, INC. Reg. Ent. Ref. No. RN106543762 Facility/Site Region 16-Laredo Major/Minor Source Minor CASE INFORMATION Enf./Case ID No. 45846 No. of Violations 2 Docket No. 2012-2703-MLM-E Order Type 1660 Media Program(s) Air & Petroleum Storage Tank Government/Non-Profit No Multi-Media Waste Tires & Used Oil Filter Enf. Coordinator Andrea Park EC's Team Enforcement Team 6 Maximum Admin. Penalty \$ Limit Minimum \$25,000 Penalty Calculation Section TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 \$3,750 ADJUSTMENTS (+/-) TO SUBTOTAL 1 Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage. Compliance History 0.0% Enhancement Subtotals 2, 3, & 7 \$0 No adjustment for compliance history. Notes Culpability No 0.0% Enhancement Subtotal 4 \$0 The Respondent does not meet the culpability criteria. Notes Good Faith Effort to Comply Total Adjustments Subtotal 5 \$0 \$0 **Economic Benefit** 0.0% Enhancement* Subtotal 6 Total FB Amounts *Capped at the Total EB \$ Amount Approx. Cost of Compliance \$5,100 SUM OF SUBTOTALS 1-7 \$3,750 Final Subtotal \$0 OTHER FACTORS AS JUSTICE MAY REQUIRE 0.0% Adjustment Reduces or enhances the Final Subtotal by the indicated percentage. Notes

STATUTORY LIMIT ADJUSTMENT

Notes

PAYABLE PENALTY

Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Deferral offered for expedited settlement.

Final Penalty Amount

Final Assessed Penalty

Adjustment

Reduction

20.0%

\$3,750

\$3,750

-\$750

\$3,000

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

Screening Date 9-Dec-2012

Docket No. 2012-2703-MLM-E

Respondent H & S CONSTRUCTORS, INC.

Case ID No. 45846

Reg. Ent. Reference No. RN106543762

Media [Statute] Air & Petroleum Storage Tank

Enf. Coordinator Andrea Park

omponent	ory Site Enhancement (Subtotal 2) Number of	Enter Number Here	Adjust
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
Orders	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
and Consent Decrees	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audito	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
Audits	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
	Plea	ase Enter Yes or No	
	Environmental management systems in place for one year or more	No	0%
Other	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
0 (1.0)	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%
VXXVIII (Adjustment Pero	centage (Sub	total 2
at Violator (N/A	Subtotal 3) Adjustment Per	centage (Sub	total 3
	pry Person Classification (Subtotal 7)		
Unclass	ified Adjustment Pero	centage (Sub	total 7
	ory Summary		
Compliance History Notes	No adjustment for compliance history.		
	Total Compliance History Adjustment Percentage (S	Subtotals 2.	3. & <i>7</i>

		9-Dec-2012	Docket No. 2012-2703-MLM-E	PCW
	pondent e ID No.	H & S CONSTRUCTORS, INC.		Policy Revision 3 (September 2011)
Reg. Ent. Refere				PCW Revision August 3, 2011
		Air & Petroleum Storage Tan	k	
Production Control of the Control of	. Commission of the factor	Andrea Park		
	n Number	1		
Ru	ıle Cite(s)	30 Tex. Admin. Code § 116.	110(a) and Tex. Health & Safety Code §§ 38 and 382.085(b)	32.0518(a)
Violation Do	escription	Specifically, the Respond	on to construct and operate a source of air e ent failed to obtain permit authorization prio ition of dry abrasive and surface coating faci	r to the
			Bas	se Penalty \$25,000
>> Environmenta	l, Proper	ty and Human Health	Matrix	
		Harm		*
OR	Release Actual	Major Moderate	Minor	
	Potential		Percent 0.0%	
>>Programmatic	Matrix			
	elsification	Major Moderate	Minor	
		x	Percent 5.0%	
Matrix Notes		100% of the rule	e requirement was not met.	
Notes				
			Adjustment	\$23,750
			•	
7				\$1,250
Violation Events				
, n	Number of V	iolation Events 2	60 Number of violation	davs
•				/-
***************************************		daily		
		weekly monthly		
	ark only one with an x	quarterly x	Violation Bas	e Penalty \$2,500
		semiannual annual		
		single event		
Tw	vo quarterly	•	authorization) are recommended from the Oc	ctober 10,
		2012 investigation to the	December 9, 2012 screening date.	
Good Faith Efforts	to Comr	nlv 0.0%	Reduction	\$0
GOOD FAITH EHOITS	r to comp		NOV to EDPRP/Settlement Offer	<u> </u>
		Extraordinary		
		Ordinary X	(mark with x)	
		Notes The Responde	ent does not meet the good faith criteria for this violation.	
			Violation	Subtotal \$2,500
Economic Benefit	(EB) for	this violation	Statutory Limit	Test
			SOCIAL PROPERTY OF THE	
	Esumate	d EB Amount	\$208 Violation Final Pen	
		This viola	ation Final Assessed Penalty (adjusted f	or limits) \$2,500

	E	conomic	Benefit	Wo	rksheet		
Respondent	gr	환경하다 경영화 중에 하는 사람들은 경영하다 하나 하나 하나를 받았다.	\$1.000 aT.7 4. T.	4 5 5 5 5 7 5 5 7 5 7 5 7 5 7 5 7 5 7 5	F 4888588 18 - T485 4541 -	4-, 4	11 Fin 01 11 11 11 11 11 11 11 11 11 11 11 11
Case ID No.		•					
ea. Ent. Reference No.		2					
		m Storage Tank					Years of
Violation No.						Percent Interest	Depreciation
Violation ito						5.0	15
					T	Onetime Costs	EB Amount
		Date Required	Final Date	YFS	Interest Saveo	Onetime Costs	ED AHIUUIIL
Item Description	No commas or \$					(67)57.6	
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Delayed Costs			100000000000000000000000000000000000000			2000	2,000,000
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling		ļ		0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a 🕬	\$0
Permit Costs	\$5.000	10-Oct-2012	9-Aug-2013	0.83	\$208	n/a	\$208
Other (as needed)		_}		0.00	\$0	n/a	\$0
Notes for DELAYED costs			date is the es	timated	date of compliance	e investigation date e. for one-time avoic	
Avoided Costs	ANNUAL	TYE [1] avoided	costs before				
Disposal		 		0.00	\$0 \$0	\$0 \$0	\$0 \$0
Personnel rspection/Reporting/Sampling		 		0.00	\$0 \$0	\$0 \$0	\$0 \$0
Supplies/equipment	ļ			0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
other (as needed)				10.00	<u> </u>	·	
Notes for AVOIDED costs	II.						
HOLES TOT AT CEPED COSES	ll .						
Notes for Avoidable costs							
Notes for Avoiding Costs							
110103 107 AV02020 0000							
Approx. Cost of Compliance		\$5,000	· · · · · · · · · · · · · · · · · · ·		TOTAL		\$208

1	ening Date			Do	cket No. 2012-2703-MLM-E		PCW
A 10 - 1 - 1 - 1 - 1 - 1 - 1 - 1 - 1 - 1	The control of the co	H & S CONSTRUC	CTORS, INC.				n 3 (September 2011)
Reg. Ent. Re	Case ID No.					PCW Re	evision August 3, 2011
		Air & Petroleum S	Storage Tank				
	Coordinator		, , , , , , , , , , , , , , , , , , ,	•			***************************************
Viol	ation Number						200
	Rule Cite(s)	30 Tex.	Admin. Code	§ 334.127(and Tex. Water Code § 26.34	6	TO THE PARTY OF TH
				· · · · · · · · · · · · · · · · · · ·			east-connect connect c
Violatio	on Description	from the date	petroleum pr not register	oduct was fir with the TC	tank ("AST") registration within st placed into the tank. Specific Q an AST 30 days from the date ank on July 10, 2012.	ally, the	THE PARTY OF THE P
					Bas	e Penalty	\$25,000
>> Environme	ntal. Proper	tv and Huma	n Health I	Yatrix			COMMONDATIVITIES
			Harm	•			***************************************
or	Release Actual	Major	Moderate	Minor			
J.	Potential				Percent 0.0%		, market and a second a second and a second
_	•						Service of the company of the compan
>>Programma	tic Matrix Falsification	Major	Moderate	Minor			
	raisincación	x I	Moderate	Pilitor	Percent 5.0%		9
		<u> </u>					
Matrix							
Notes		100	% of the rule	requiremen	t was not met.	-	
					Adjustment	\$23,750	9
					-		
						L	\$1,250
Violation Even	ts						***************************************
				-			
	Number of V	/iolation Events	1		92 Number of violation	days	
	Ī	daily					-
		weekly					
		monthly				_	
	mark only one with an x	quarterly			Violation Base	e Penalty	\$1,250
		semiannual					Accordance
		annual single event					000000000
	•	511191C CTC/// [_					777
	One single ev	vent is recommend	ded based or	documenta	tion of the violation on October 1	0, 2012.	A CONTRACTOR OF THE CONTRACTOR
		William To The Control of the Contro					
Good Faith Effo	orts to Com	ply	0.0%	Reduction			\$0
			Before NOV	NOV to EDPRP/S	Settlement Offer	_	
		Extraordinary					
		Ordinary					0000
		N/A	X[(mark with x)			***************************************
		Notes T	he Responde		meet the good faith criteria for		ACCOCCU-
		110003		this	violation.		ALIMAN
		<u> </u>				O., h. h	#1 DE0
					Violation	Subtotal	\$1,250
Economic Bene	efit (EB) for	this violation			Statutory Limit	Test	
	Estimate	ed EB Amount		\$5	Violation Final Pena	elty Total	\$1,250
			This viol	ation Final .	Assessed Penalty (adjusted fo	or limits)	\$1,250

Violation No.		ım Storage Tank				Percent Interest	Years of
그렇게 말았다. 그 날아버지는 그를 모고 그래? 하네요	, 2 			Batas 1			Depreciation
	엄청 시간!					5.0	15
	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	No commas or s						
Delayed Costs	. NO 1144	SESEME - SCOUND		¥4.	Committee of the Section	e de localmente	
Equipment		1		0.00	\$0	\$0	\$0
Buildings		1		0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land		1		0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
			· · · · · · · · · · · · · · · · · · ·	0.00	\$0	n/a	\$0
Training/Sampling	H	II II		11 0.00 1			
Training/Sampling Remediation/Disposal				0.00	\$0 \$0	n/a	\$0
Remediation/Disposal Permit Costs Other (as needed)	\$100	9-Aug-2012	9-Aug-2013	0.00 0.00 1.00	\$0 \$0 \$5	in/a in/a in/a in/a	\$0 \$0 \$5
Remediation/Disposal Permit Costs Other (as needed) Notes for DELAYED costs	Estimated cos	st to accurately pro due date, a	epare and submand the final da	0.00 0.00 1.00 nit an As	\$0 \$0 \$5 ST registration. Te estimated date of	n/a n/a n/a he date required is to of compliance.	\$0 \$0 \$5 the registration
Remediation/Disposal Permit Costs Other (as needed) Notes for DELAYED costs Avoided Costs	Estimated cos	st to accurately pro due date, a	epare and submand the final da	0.00 0.00 1.00 nit an Aste is the	\$0 \$0 \$5 ST registration. To estimated date of the state	n/a n/a n/a he date required is to for compliance.	\$0 \$0 \$5 the registration
Remediation/Disposal Permit Costs Other (as needed) Notes for DELAYED costs Avoided Costs Disposal	Estimated cos	st to accurately pro due date, a	epare and submand the final da	0.00 0.00 1.00 nit an Aste is the	\$0 \$0 \$5 For registration. The estimated date of the state of the stat	n/a n/a n/a he date required is to f compliance. for one-time avoid	\$0 \$0 \$5 the registration
Remediation/Disposal Permit Costs Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel	Estimated cos	st to accurately pro due date, a	epare and submand the final da	0.00 0.00 1.00 nit an Aste is the	\$0 \$0 \$5 ST registration. To estimated date of the standard date of the	he date required is to for one-time avoid \$0 \$0	\$0 \$0 \$5 the registration led costs) \$0 \$0
Remediation/Disposal Permit Costs Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel spection/Reporting/Sampling	Estimated cos	st to accurately pro due date, a	epare and submand the final da	0.00 0.00 1.00 nit an Astronomic in the is the isthering of the isthering of the interior o	\$0 \$0 \$5 ST registration. To estimated date of the standard date of the	n/a n/a n/a n/a he date required is to for one-time avoid \$0 \$0 \$0 \$0	\$0 \$0 \$5 the registration led costs) \$0 \$0
Remediation/Disposal Permit Costs Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel	Estimated cos	st to accurately pro due date, a	epare and submand the final da	0.00 0.00 1.00 1.00 hit an Aste is the enterin 0.00 0.00 0.00	\$0 \$0 \$5 ST registration. To estimated date of the standard o	n/a	\$0 \$0 \$5 the registration led costs) \$0 \$0 \$0
Remediation/Disposal Permit Costs Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel spection/Reporting/Sampling Supplies/equipment	Estimated cos	st to accurately pro due date, a	epare and submand the final da	0.00 0.00 1.00 nit an Astronomic in the is the isthering of the isthering of the interior o	\$0 \$0 \$5 ST registration. To estimated date of the standard date of the	n/a n/a n/a n/a he date required is to for one-time avoid \$0 \$0 \$0 \$0	\$0 \$0 \$5 the registration led costs) \$0 \$0

Penalty Calculation Worksheet (PCW) Policy Revision 3 (September 2011) PCW Revision August 3, 2011 Assigned 19-Nov-2012 PCW 9-Dec-2012 Screening 9-Dec-2012 **EPA** Due RESPONDENT/FACILITY INFORMATION Respondent H & S CONSTRUCTORS, INC. Reg. Ent. Ref. No. RN106543762 Facility/Site Region 16-Laredo Major/Minor Source Major **CASE INFORMATION** Enf./Case ID No. 45846 No. of Violations 1 Docket No. 2012-2703-MLM-E Order Type 1660 Media Program(s) Waste Tires Government/Non-Profit No Multi-Media Air, Petroleum Storage Tank, Used Oil Filter Enf. Coordinator Andrea Park EC's Team Enforcement Team 6 Admin. Penalty \$ Limit Minimum \$0 Maximum \$25,000 Penalty Calculation Section \$7,500 TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 ADJUSTMENTS (+/-) TO SUBTOTAL 1 Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage. **Compliance History** \$0 0.0% Enhancement Subtotals 2, 3, & 7 No adjustment for compliance history. Notes 0.0% Enhancement \$0 Culpability No Subtotal 4 The Respondent does not meet the culpability criteria. Notes Good Faith Effort to Comply Total Adjustments Subtotal 5 \$0 **\$0 Economic Benefit** 0.0% Enhancement* Total EB Amounts *Capped at the Total EB \$ Amount \$415 Approx. Cost of Compliance \$10,000 \$7,500 SUM OF SUBTOTALS 1-7 Final Subtotal 0.0% \$0 OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment Reduces or enhances the Final Subtotal by the indicated percentage Notes Final Penalty Amount \$7,500

\$7,500

-\$1,500

\$6,000

Final Assessed Penalty

Reduction Adjustment

20.0%

STATUTORY LIMIT ADJUSTMENT

PAYABLE PENALTY

Notes

Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Deferral offered for expedited settlement.

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

Docket No. 2012-2703-MLM-E

Respondent H & S CONSTRUCTORS, INC.

Case ID No. 45846

Reg. Ent. Reference No. RN106543762

Media [Statute] Waste Tires Enf. Coordinator Andrea Park

Compliance History Worksheet

Component	ry Site Enhancement (Subtotal 2) Number of	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
Orders	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
and Consent Decrees	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
Addits	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
	Ple	ease Enter Yes or No	
	Environmental management systems in place for one year or more	No	0%
Other	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
0 4,10,	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%
·	Adjustment Per	rcentage (Sub	total 2)
		(G-b	4-4-1 2)
N/A	Adjustment Per	centage (Sub	totai 3)
ompliance Histo	ry Person Classification (Subtotal 7)		Parasolani.
Unclass	ified Adjustment Per	centage (Sub	total 7)
ompliance Histo	ry Summary	NEW YORK	
Compliance History Notes	No adjustment for compliance history.		
	Total Compliance History Adjustment Percentage (S	Subtotals 2,	3, & 7)

1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	eening Date 9-Dec-2012 Docket No. 2012-2703-MLM-E	PCW
♣ + 0 - + + + + + + + + + + + + + + + + +	Respondent H & S CONSTRUCTORS, INC. Police Case ID No. 45846	y Revision 3 (September 2011) PCW Revision August 3, 2011
\$3.00 to 1.00	ference No. RN106543762	PCW Revision August 3, 2011
Medi	a [Statute] Waste Tires	
	Coordinator Andrea Park	
Viol	ation Number 1	
Company of the Compan	Rule Cite(s) 30 Tex. Admin. Code § 328.60(a)	
Violatio	Falled to obtain a scrap tire storage site registration for the Facility prior to storage in Description on Description Falled to obtain a scrap tire storage site registration for the Facility prior to storage in the ground or 2,000 used or scrap tire enclosed and lockable containers. Specifically, approximately 1,250 scrap ti were observed on the ground.	s in
· · · · · · · · · · · · · · · · · · ·	Base Per	nalty \$25,000
>> Environme	ntal, Property and Human Health Matrix	
	Harm	
OR	Release Major Moderate Minor Actual	
J.	Potential Percent 0.0%	
>>Programma	Falsification Major Moderate Minor	
	x Percent 15.0%	
Matrix	100% of the rule requirement was not met.	
Notes	100% of the forest equilibrium that the times	
	Adjustment \$2	1,250
		\$3,750
Violation Event		
	Number of Violation Events 2 60 Number of violation days	
	mark only one with an x mark only one with an x Violation Base Per Violation Base Per Semiannual annual single event	nalty \$7,500
	Two monthly events are recommended based on documentation of the violation during th October 10, 2012 investigation to the December 9, 2012 screening date.	е
Good Faith Effo	orts to Comply 0.0% Reduction	\$0
	Before NOV NOV to EDPRP/Settlement Offer	***************************************
	Extraordinary	
	Ordinary (mark with x)	
***	The Respondent does not meet the good faith criteria for	***************************************
And the same of th	Notes this violation.	above en
***************************************	Violation Sub	total \$7,500
Economic Bene	fit (EB) for this violation Statutory Limit Tes	it is a second
	Estimated EB Amount \$415 Violation Final Penalty 7	
no operation of		
	This violation Final Assessed Penalty (adjusted for lin	nits) \$7,500

eg. Ent. Reference No. Media Violation No.	Waste Tires					Percent Interest	Years of Depreciation
						5.0	15
	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	No commas or \$						
Delayed Costs						********	Strate Single
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
				0.00	\$0	n/a	\$0
Record Keeping System							
Record Keeping System Training/Sampling				0.00	\$0	n/a	\$0
				0.00	\$0	est e nya	\$0
Training/Sampling	\$10.000	10-Oct-2012	9-Aua-2013	0.00	\$0 \$415	种类的/a i Maria n/a	\$0 \$415
Training/Sampling Remediation/Disposal Permit Costs Other (as needed)		st to register the	Facility as a scr	0.00 0.83 0.00 p tire	\$0 \$415 \$0 storage facility. Ti	n/a n/a n/a ne date required is ti	\$0 \$415 \$0
Training/Sampling Remediation/Disposal Permit Costs	Estimated co	st to register the investigation	Facility as a scr n, and the final	0.00 0.83 0.00 ap tire date is enterii	\$0 \$415 \$0 storage facility. The expected date	n/a n/a n/a n/a ne date required is to of compliance. for one-time avoid	\$0 \$415 \$0 ne date of the
Training/Sampling Remediation/Disposal Permit Costs Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel	Estimated co	st to register the investigation	Facility as a scr n, and the final	0.00 0.83 0.00 ap tire date is enterii 0.00 0.00	\$0 \$415 \$0 storage facility. The expected date of item (except 150 \$0 \$0	n/a n/a n/a n/a ne date required is to of compliance. for one-time avoid \$0 \$0	\$0 \$415 \$0 ne date of the ed costs) \$0 \$0
Training/Sampling Remediation/Disposal Permit Costs Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel spection/Reporting/Sampling	Estimated co	st to register the investigation	Facility as a scr n, and the final	0.00 0.83 0.00 ap tire date is enterii 0.00 0.00	\$0 \$415 \$0 storage facility. The expected date of the expected date \$0 \$0 \$0 \$0	n/a n/a n/a n/a n/a ne date required is to of compliance. for one-time avoid \$0 \$0 \$0 \$0	\$0 \$415 \$0 ne date of the ed costs) \$0 \$0
Training/Sampling Remediation/Disposal Permit Costs Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel spection/Reporting/Sampling Supplies/equipment	Estimated co	st to register the investigation	Facility as a scr n, and the final	0.00 0.83 0.00 ap tire date is enterii 0.00 0.00 0.00	\$0 \$415 \$0 storage facility. To the expected date of the except of the e	n/a n/a n/a n/a n/a n/a ne date required is to of compliance. for one-time avoid \$0 \$0 \$0 \$0 \$0 \$0	\$0 \$415 \$0 he date of the ed costs) \$0 \$0 \$0 \$0
Training/Sampling Remediation/Disposal Permit Costs Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel spection/Reporting/Sampling Supplies/equipment Financial Assurance [2]	Estimated co	st to register the investigation	Facility as a scr n, and the final	0.00 0.83 0.00 ap tire date is enterii 0.00 0.00 0.00 0.00	\$0 \$415 \$0 storage facility. The expected date of the expected date \$0 \$0 \$0 \$0 \$0 \$0 \$0	n/a n/a n/a n/a n/a ne date required is to of compliance. for one-time avoid \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	\$0 \$415 \$0 ne date of the ed costs) \$0 \$0 \$0 \$0
Training/Sampling Remediation/Disposal Permit Costs Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel spection/Reporting/Sampling Supplies/equipment	Estimated co	st to register the investigation	Facility as a scr n, and the final	0.00 0.83 0.00 ap tire date is enterii 0.00 0.00 0.00	\$0 \$415 \$0 storage facility. To the expected date of the except of the e	n/a n/a n/a n/a n/a n/a ne date required is to of compliance. for one-time avoid \$0 \$0 \$0 \$0 \$0 \$0	\$0 \$415 \$0 he date of the ed costs) \$0 \$0 \$0 \$0

Penalty Calculation Worksheet (PCW) Policy Revision 3 (September 2011) PCW Revision August 3, 2011 19-Nov-2012 Assigned Screening 9-Dec-2012 PCW 9-Dec-2012 **EPA** Due **RESPONDENT/FACILITY INFORMATION** Respondent H & S CONSTRUCTORS, INC. Reg. Ent. Ref. No. RN106543762 Facility/Site Region 16-Laredo Major/Minor Source Minor CASE INFORMATION Enf./Case ID No. 45846 No. of Violations 1 Docket No. 2012-2703-MLM-E Order Type 1660 Media Program(s) Used Oil Filter Government/Non-Profit No Multi-Media Waste Tires, Petroleum Storage Tank, Air Enf. Coordinator Andrea Park EC's Team Enforcement Team 6 Admin. Penalty \$ Limit Minimum \$0 Maximum \$5,000 Penalty Calculation Section TOTAL BASE PENALTY (Sum of violation base penalties) \$250 Subtotal 1 ADJUSTMENTS (+/-) TO SUBTOTAL 1 Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage. **Compliance History** \$0 0.0% Enhancement Subtotals 2, 3, & 7 No adjustment for compliance history. Notes 0.0% Enhancement Culpability No Subtotal 4 \$0 The Respondent does not meet the culpability criteria. Notes Good Faith Effort to Comply Total Adjustments Subtotal 5 \$0 \$0 **Economic Benefit** 0.0% Enhancement* Total EB Amounts *Capped at the Total EB \$ Amount Approx. Cost of Compliance \$250 SUM OF SUBTOTALS 1-7 Final Subtotal \$0 OTHER FACTORS AS JUSTICE MAY REQUIRE 0.0% Adjustment Reduces or enhances the Final Subtotal by the indicated percentage. Notes Final Penalty Amount \$250 STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty \$250 20.0% -\$50 Reduction Adjustment

Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

PAYABLE PENALTY

Deferral offered for expedited settlement.

\$200

Screening Date 9-Dec-2012

Docket No. 2012-2703-MLM-E

Policy Revision 3 (September 2011) PCW Revision August 3, 2011

Respondent H & S CONSTRUCTORS, INC.

Case ID No. 45846

Reg. Ent. Reference No. RN106543762
Media [Statute] Used Oil Filter
Enf. Coordinator Andrea Park

Written notices of violation ("NOVs") with same or similar violations as those in		ı
the current enforcement action (number of NOVs meeting criteria)	0	0%
Other written NOVs	0	0%
Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Chronic excessive emissions events (number of events)	0	0%
Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Plea	se Enter Yes or No	
Environmental management systems in place for one year or more	No	0%
Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
Participation in a voluntary pollution reduction program	No	0%
Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%
	centage (Sub	total 2
	centage (Sub	total 3
ry Person Classification (Subtotal 7)		
fied Adjustment Perd	centage (Sub	total 7
ry Summary		
No adjustment for compliance history.		:
֡	Other written NOVs Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria) Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria) Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government (number of counts) Chronic excessive emissions events (number of events) Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed) Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed) Environmental management systems in place for one year or more Voluntary on-site compliance assessments conducted by the executive director under a special assistance program Participation in a voluntary pollution reduction program Early compliance with, or offer of a product that meets future state or federal government environmental requirements Adjustment Percent Percent Subtotal 3) Adjustment Percent P	Other written NOVs Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria) Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria) Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government (number of judgments or the federal government (number of judgments or consent decrees without a denial of liability, of this state or the federal government (number of judgments or consent decrees without a denial of liability, of this state or the federal government (number of judgments or consent decrees without a denial of liability, of this state or the federal government (number of judgments or consent decrees without a denial of liability, of this state or the federal government (number of judgments or consent decrees without a denial of liability, of this state or the federal government (number of judgments or non-adjudicated final court judgment federal government en judgment federal government environmental requirements Adjustment Percentage (Subgovernment federal government environmental requirements Adjustment Percentage (Subgovernment environmental requirements)

	Date 9-Dec-2012 Docket No. 2012-2703-MLM-F	e PCW
	ndent H & S CONSTRUCTORS, INC.	Policy Revision 3 (September 201)
Reg. Ent. Referen	D No. 45846	PCW Revision August 3, 201
	atute] Used Oil Filter	
Enf. Coordi	nator Andrea Park	
Violation N	lumber 1	
Rule	Cite(s) 30 Tex. Admin. Code § 328.25(a) and Tex. Health & Safety Code §	371.105
Violation Desc	Failed to demonstrate transfer of custody of used oil filters from the transfer of the registered storage facility or processor using properly completed b ("BOLs"). Specifically, copies of BOLs were not made available for insagency personnel.	oills of lading
	Ва	ase Penalty \$5,00
>> Environmental. I	Property and Human Health Matrix	
	Harm	3000
OR	Release Major Moderate Minor Actual	
	otential Percent 0.09	%
>>Programmatic Ma	ication Major Moderate Minor	
	X Percent 5.09	%
Matrix Notes	100% of the rule requirement was not met.	
<u> </u>		
	Adjustment	\$4,750
		\$25
Violation Events		
Nun	nber of Violation Events 1 1 Number of violatio	on days
	daily weekly monthly quarterly semiannual annual Single event daily Weekly Monthly quarterly semiannual annual Single event	ase Penalty \$25
	One single event is recommended.	
Good Faith Efforts to	Comply 0.0% Reduction	\$
	Before NOV NOV to EDPRP/Settlement Offer	T.
	Extraordinary	
	Ordinary (mark with x)	
	The Respondent does not meet the good faith criteria fo	or
TOTAL PROPERTY AND ADDRESS OF THE PROPERTY ADDRESS OF	this violation.	
***************************************	Violatio	on Subtotal \$25
Economic Benefit (E	B) for this violation Statutory Lim	iit Test
.	stimated EB Amount \$8 Violation Final Pe	nalty Total \$25
	This violation Final Assessed Penalty (adjusted	for limits) \$250

Media Violation No.	Used Oil Filter 1					Percent Interest	Years of Depreciation
						5.0	15
	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	No commas or \$						
		98,000,000	A (\$ e composition of the compos	engaliti 100			
Delayed Costs		<u> </u>		0.00	so	s0 I	\$0
Equipment Buildings		<u> </u>		0.00	\$0 \$0	\$0	\$0 \$0
Other (as needed)				0.00	\$0	\$0 \$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land	<u> </u>			0.00	\$0	n/a	\$0
Record Keeping System	\$200	10-Oct-2012	9-Aug-2013	0.83	\$8	n/a	\$8
Training/Sampling				0.00	\$0	n/a	\$0
rraining/Sampling						***************************************	
Remediation/Disposal				0.00	\$0	n/a	\$0
• • • •				0.00	\$0 \$0	n/a n/a	\$0 \$0
Remediation/Disposal Permit Costs Other (as needed)				0.00 0,00 BOLs a	\$0 \$0 and to develop and	n/a n/a implement procedu	\$0 \$0 res to ensure
Remediation/Disposal Permit Costs Other (as needed) Notes for DELAYED costs	the BOLs a	re completed. Th	e date required expecte	0.00 0.00 BOLs a is the d date	\$0 \$0 and to develop and date of the invest of compliance.	n/a n/a implement procedu igation, and the fina	\$0 \$0 res to ensure I date is the
Remediation/Disposal Permit Costs Other (as needed) Notes for DELAYED costs Avoided Costs	the BOLs a	re completed. Th	e date required expecte	0.00 0.00 BOLs at is the didate	\$0 \$0 and to develop and date of the invest of compliance.	i n/a n/a implement procedu igation, and the fina for one-time avoid	\$0 \$0 res to ensure I date is the
Remediation/Disposal Permit Costs Other (as needed) Notes for DELAYED costs Avoided Costs Disposal	the BOLs a	re completed. Th	e date required expecte	0.00 0.00 BOLs at is the d date entering 0.00	\$0 \$0 and to develop and date of the invest of compliance. ng item (except	in/a n/a implement procedu igation, and the fina for one-time avoid \$0	\$0 \$0 res to ensure I date is the
Remediation/Disposal Permit Costs Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel	the BOLs a	re completed. Th	e date required expecte	BOLs at is the d date enterin	\$0 \$0 and to develop and date of the invest of compliance. ng item (except \$0 \$0	implement procedu igation, and the fina for one-time avoid \$0 \$0	\$0 \$0 res to ensure I date is the
Remediation/Disposal Permit Costs Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel spection/Reporting/Sampling	the BOLs a	re completed. Th	e date required expecte	0.00 0.00 BOLs at is the d date entering 0.00 0.00 0.00	\$0 \$0 and to develop and date of the invest of compliance. ng item (except \$0 \$0 \$0	implement procedu igation, and the fina for one-time avoid \$0 \$0 \$0 \$0	\$0 \$0 res to ensure I date is the
Remediation/Disposal Permit Costs Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel spection/Reporting/Sampling Supplies/equipment	the BOLs a	re completed. Th	e date required expecte	0.00 0.00 BOLs at is the didate enterii 0.00 0.00 0.00	\$0 \$0 and to develop and date of the invest of compliance. ng item (except \$0 \$0	implement procedu igation, and the fina for one-time avoid \$0 \$0	\$0 \$0 res to ensure I date is the led costs) \$0 \$0
Remediation/Disposal Permit Costs Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel spection/Reporting/Sampling	the BOLs a	re completed. Th	e date required expecte	0.00 0.00 BOLs at is the d date entering 0.00 0.00 0.00	\$0 \$0 and to develop and date of the invest of compliance. ng item (except \$0 \$0 \$0 \$0	implement proceduligation, and the fina for one-time avoid \$0 \$0 \$0 \$0 \$0 \$0	\$0 \$0 res to ensure I date is the led costs) \$0 \$0 \$0
Remediation/Disposal Permit Costs Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel spection/Reporting/Sampling Supplies/equipment Financial Assurance [2]	the BOLs a	re completed. Th	e date required expecte	0.00 0.00 BOLs at is the didate enterial 0.00 0.00 0.00 0.00	\$0 \$0 and to develop and date of the invest of compliance. ng item (except \$0 \$0 \$0 \$0 \$0	implement proceduligation, and the fina for one-time avoid \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	\$0 \$0 res to ensure I date is the Ied costs) \$0 \$0 \$0 \$0

The TCEQ is committed to accessibility. To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



Compliance History Report

PUBLISHED Compliance History Report for CN601038177, RN106543762, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, Owner/Operator:	or CN60	01038177, H & S CC	ONSTRUCTORS, INC	· Classification:	JNCLASSIFI	ED Ratin	g:	
Regulated Entity: RN106543762, H & S PIF Complexity Points: N/A			PELINE	Classification:	ABLE Ratin	Rating: N/A		
				Repeat Violator:	N/A			
CH Group:	14 - Other			-				
Location:	370	FM RD 190 DIMMIT,	TX, DIMMIT COUN	ΤΥ				
TCEQ Region:	REG	REGION 16 - LAREDO						
ID Number(s): AIR NEW SOURCE PERMITS	s REGIS	STRATION 106779						
Compliance History Peri	od:	September 01, 200	7 to August 31, 201	2 Rating Year	: 2012	Rating Date	09/01/2012	
Date Compliance History	y Repo	ort Prepared:	January 02, 2013	<u> </u>				
Agency Decision Requir	ing Co	mpliance Histor	y: Enforceme	nt		•		
Component Period Selec	cted:	January 02, 200	8 to January 02, 20	13				
TCEQ Staff Member to C	ontact	for Additional I	information Reg	arding This Comp	iance His	tory.		
Name: Andrea Park								
Site and Owner/Oper	ator F	<u> History:</u>						
1) Has the site been in exister	nce and/	or operation for the	full five year compl	iance period?		NO		
2) Has there been a (known)	change i	in ownership/operate	or of the site during	the compliance period	?	NO		
3) If YES for #2, who is the current owner/operator?			N/A					
4) If YES for #2, who was/wer owner(s)/operator(s)?	re the pi	rior	N/A					
5) If YES , when did the char occur?	ige(s) in	owner or operator	N/A			•		
Components (Multime	edia) 1	for the Site Ar	e Listed in Sec	ctions A - J				
A. Final Orders, court j	udgme	ents, and conser	nt decrees:					

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

F. Environmental audits:

N/A

н.	Voluntary on-site compliance assessment dates: N/A
I.	Participation in a voluntary pollution reduction program: $\ensuremath{N/A}$
J.	Early compliance: N/A
	es Outside of Texas: N/A

G. Type of environmental management systems (EMSs):

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN	8	BEFUKE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	TEXAS COMMISSION ON
H & S CONSTRUCTORS, INC.	§	
RN106543762	§	ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2012-2703-MLM-E

I. JURISDICTION AND STIPULATIONS

On _________, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding H & S CONSTRUCTORS, INC. ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE chs. 382, 361, and 371 and TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

- 1. The Respondent owns and operates a heavy construction facility at 370 Farm-to-Market Road 190 in Asherton, Dimmit County, Texas (the "Facility").
- 2. The Facility consists of one or more sources as defined in Tex. Health & Safety Code § 382.003(12). The Facility involves or involved the management of municipal solid waste as defined in Tex. Health & Safety Code ch. 361. The Facility involves or involved the management of used oil as defined in Tex. Health & Safety Code ch. 371. The Respondent's one aboveground storage tank ("AST") is not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission.
- 3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
- 4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about November 21, 2012.
- 5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

- 6. An administrative penalty in the amount of Eleven Thousand Five Hundred Dollars (\$11,500) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Nine Thousand Two Hundred Dollars (\$9,200) of the administrative penalty and Two Thousand Three Hundred Dollars (\$2,300) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
- 7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
- 8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 Tex. ADMIN. CODE § 70.10(a).
- 9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
- 10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
- 11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

- 1. Failed to obtain authorization to construct and operate a source of air emissions, in violation of 30 Tex. Admin. Code §116.110(a) and Tex. Health & Safety Code §§382.0518(a) and 382.085(b), as documented during an investigation conducted on October 10, 2012. Specifically, the Respondent failed to obtain permit authorization prior to the construction and operation of dry abrasive and surface coating facilities.
- 2. Failed to submit an AST registration within 30 days from the date petroleum product was first placed into the tank, in violation of 30 Tex. ADMIN. Code § 334.127(c) and Tex. Water Code § 26.346, as documented during an investigation conducted on October 10, 2012. Specifically, the Respondent did not register with the TCEQ an AST 30 days from the date product was placed into the tank on July 10, 2012.
- 3. Failed to obtain a scrap tire storage site registration for the Facility prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in enclosed and lockable containers, in violation of 30 Tex. ADMIN. CODE § 328.60(a), as documented

during an investigation conducted on October 10, 2012. Specifically, approximately 1,250 scrap tires were observed on the ground.

4. Failed to demonstrate transfer of custody of used oil filters from the transporter to the registered storage facility or processor using properly completed bills of lading ("BOLs"), in violation of 30 Tex. Admin. Code § 328.25(a) and Tex. Health & Safety Code § 371.105, as documented during an investigation conducted on October 10, 2012. Specifically, copies of BOLs were not made available for inspection by agency personnel.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: H & S CONSTRUCTORS, INC., Docket No. 2012-2703-MLM-E" to:

Financial Administration Division, Revenue Operations Section Attention: Cashier's Office, MC 214 Texas Commission on Environmental Quality P.O. Box 13088 Austin, Texas 78711-3088

- 2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, cease disposing of any additional scrap tires at the Facility; and
 - b. Within 15 days after the effective date of this Agreed Order, submit an administratively complete registration for a Permit by Rule in accordance with 30 Tex. Admin. Code ch. 106 to:

Air Permits Division, MC 162 Texas Commission on Environmental Quality P.O. Box 13087 Austin, Texas 78711-3087

c. Within 30 days after the effective date of this Agreed Order:

- i. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning permit application within 30 days after the date of such requests, or by any other deadline specified in writing;
- ii. Reduce and maintain the number of scrap tires being stored on-site to 500 or less on the ground and/or 2,000 or less in enclosed and lockable containers, in accordance with 30 Tex. ADMIN. CODE §§ 328.56 and 328.60; or
- iii. Obtain a scrap tire storage site registration, in accordance with 30 Tex. ADMIN. CODE § 328.60; and
- iv. Complete and submit used oil filter BOLs, in accordance with 30 TEX. ADMIN. CODE § 328.25(a) to:

Order Compliance Team Enforcement Division, MC 149A Texas Commission on Environmental Quality P.O. Box 13087 Austin, Texas 78711-3087

with a copy to:

Waste Section Manager Laredo Regional Office Texas Commission on Environmental Quality 707 East Calton Road, Suite 304 Laredo, Texas 78041-3887

v. Submit a registration for the AST, in accordance with 30 TEX. ADMIN. CODE § 334.127 to:

Permitting and Reporting Sections Permitting & Remediation Support Division, MC 138 Texas Commission on Environmental Quality P.O. Box 13087 Austin, Texas 78711-3087

d. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. through 2.c. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and

complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team Enforcement Division, MC 149A Texas Commission on Environmental Quality P.O. Box 13087 Austin, Texas 78711-3087

with a copy to:

Waste Section Manager Laredo Regional Office Texas Commission on Environmental Quality 707 East Calton Road, Suite 304 Laredo, Texas 78041-3887

- 3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
- 4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
- 5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
- 6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
- 7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or

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otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under Tex. Bus. Org. Code § 1.002.

8. Under 30 Tex. Admin. Code § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission	
For the Executive Director	<u>6/4/13</u> Date
agree to the attached Agreed Order on bel do agree to the terms and conditions specif	tand the attached Agreed Order. I am authorized to half of the entity indicated below my signature, and fied therein. I further acknowledge that the TCEQ, it is materially relying on such representation.
 and/or failure to timely pay the penalty am A negative impact on compliance his Greater scrutiny of any permit appli Referral of this case to the Attorn additional penalties, and/or attorne Increased penalties in any future en Automatic referral to the Attorney and TCEQ seeking other relief as author 	story; ications submitted; ney General's Office for contempt, injunctive relief by fees, or to a collection agency; forcement actions; General's Office of any future enforcement actions
Mc Jawail Signature	01/21/13 Date
Name (Printed or typed) Authorized Representative of	SAFETY RHR HGR. Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.